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Technology Center 2100

In re Application of: Gerald Pechanek et al.)
Application No. 10/036,789)
Filed: December 21, 2001)
For: MANIFOLD ARRAY PROCESSOR)

**DECISION ON PETITION
UNDER 37 C.F.R. § 1.181 TO
WITHDRAW HOLDING OF
ABANDONMENT**

This is a decision on the petition filed, August 7 2003, under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment.(See MPEP § 711.03(c)).

The petition is **GRANTED**.

The Application was abandoned for failure to file a timely response to the Restriction requirement action mailed on February 25, 2003. A Notice of Abandonment was mailed July 31, 2003.

As the period for response including extensions of time was not set to expire until August 25, 2003 the mailing of the Notice of Abandonment was premature. The Office regrets any inconvenience caused by this precipitate action.

37 C.F.R. § 1.8(b) states:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

In support of the petition, Petitioner provides a copy of the originally submitted amendment and response (2 pages); a certificate of transmission by facsimile signed by Marianna Tortorelli dated March 18, 2003 indicating that 3 pages were being sent (including the fee transmittal sheet); and a copy of an auto-reply response to the facsimile transmission from the U.S. Patent and Trademark Office acknowledging that 4 pages were received (including the cover sheet) on March 18, 2003.

Petitioner has established that a timely response was filed on March 18, 2003 within the 1-month period of response and that no extension of time fees were required for the response.

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **VACATED**.

The application file is being forwarded to the technical support staff for entry of the response. From there, the application file will be forwarded to the examiner for consideration of the response.

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